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Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JUSTIN BURLEY-BEAVERS,

Plaintiff,

v.

THE MASTER WRENCH, INC.,

Defendant.

No. 3:24-cv-00992

ANSWER, AFFIRMATIVE DEFENSES, and
COUNTERCLAIM

Defendant The Master Wrench, Inc. (“Defendant”) responds to the allegations in the
Complaint as follows:

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ANSWER

1.

Except as expressly denied, Defendant admits the allegations in following paragraphs of the Complaint: 4 and 10.

2.

In response to Paragraph 3, Defendant denies that it is in violation of the ADA and admits the remaining allegations.

3.

In response to Paragraph 12, Defendant admits that it is the owner and operator of real property that is the subject of this action and denies the remaining allegations.

4.

Except as expressly admitted, Defendant denies the allegations in the following paragraphs of the Complaint: 1; 2; 14; 21; 26; 29; 30; 33; and 34. Additionally, Defendant denies that Plaintiff is entitled to its requested relief.

5.

Defendant is without knowledge sufficient to form a belief as to the truth of allegations contained in the following paragraphs of the Complaint: 5; 6; 7; 8; 9; 11; 13; 15; 16; 17; 19; 27; 28; and 32.

6.

The following paragraphs of the Complaint contain legal conclusions, which require no response (but are denied to the extent a response is required): 18; 22; 23; 24; 25; 31; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; and 46.

7.

Defendant denies each and every allegation of Plaintiff's Complaint not expressly admitted herein.

AFFIRMATIVE DEFENSES

8.

Plaintiff has failed to establish plausibly that the cost of removing the alleged barriers does not exceed the benefits under the circumstances.

9.

Plaintiff has failed to propose methods of barrier removal.

10.

Removal of the barriers identified by Plaintiff is not readily achievable.

11.

(Failure to State a Claim)

The complaint fails to state a cause of action under Title III of the ADA. It states no facts to support any alleged violations; it only states legal conclusions.

COUNTERCLAIM FOR ATTORNEY FEES

12.

Defendant re-alleges paragraphs 1 – 11 herein, as if fully set forth.

13.

Upon information and belief, Plaintiff has been hired by an out-of-state law firm to sue as many persons as possible for alleged ADA Title III violations.

14.

Plaintiff's Complaint is virtually identical to dozens of other complaints he has filed in the District of Oregon this year. Plaintiffs complaints, including the one filed in the instant case, contain no facts to support Title III ADA claims; they only contain legal conclusions and appear to be cut and pasted.

15.

Plaintiff conducts no to very little investigation of a property before filing a lawsuit against its owner or lessee.

16.

Plaintiff conducts no analysis before filing a lawsuit to determine which ADA rules apply to a property and whether any modifications are readily achievable.

17.

Plaintiff refuses to discuss resolution of alleged violations unless attorney fees are paid.

18.

Upon information and belief, Plaintiff will dismiss a lawsuit to avoid appearing in person for a deposition or signing a settlement that has already been fully negotiated between the parties.

PRAYER

WHEREFORE, Defendant prays for costs and reasonable attorney fees for having to respond to a frivolous lawsuit.

DATED: July 15, 2024

s/ Jill O. Gibson

Jill O. Gibson, OSB #973581

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CERTIFICATE OF SERVICE

In accordance with Fed. R. Civ. P. 5(b)(2)(E) and LR5-1, I hereby certify that on July 15, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

DATED this 15th day of July 2024.

s/ Jill O. Gibson

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